

No. 19-1594

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*In the* **United States Court of Appeals**  
*for the* **Eighth Circuit**

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John Doe,

Plaintiff – Appellant,

v.

University of St. Thomas,

Defendant – Appellee,

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ON APPEAL FROM  
THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA  
Civ. No. 16-cv-1127, Hon. John R. Tunheim

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**AMICUS CURIAE’S MOTION FOR LEAVE TO FILE AN AMICUS BRIEF  
AND FOR AN EXTENSION OF TIME TO FILE THEIR BRIEF**

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*Counsel for Minnesota Private College Council*

Amicus Curiae Minnesota Private College Council (“MPCC”) respectfully moves the Court for leave to file an amicus brief under Fed. R. App. P. 29. MPCC further moves the Court under 8th Cir. Local R. 27A(a)(2) to extend the deadline for filing their brief by 14 days, up to and including July 12, 2019. The request is based on the following grounds:

1. MPCC is permitted to file an amicus brief under Fed. R. App. P. 29(a)(2) only with leave of the Court because not all parties have consented to its filing.

Appellee University of St. Thomas does not object to MPCC’s request.

2. The Court should grant MPCC leave to file an amicus brief for the following reasons:

- a. Appellant John Doe asks this Court to determine “the negligence duty owed by universities such as [the University of St. Thomas] to their students” under Minnesota law. (Appellant Br. at 2.)
  - b. MPCC represents 17 private nonprofit colleges and universities in Minnesota that will be impacted by the Court’s decision regarding the duty these institutions owe to their students.
  - c. MPCC’s brief would address this duty, which presents a novel question with far-reaching implications. The Court will benefit from the views of higher-education institutions in Minnesota.
3. With the Court’s permission to file an amicus brief, MPCC also requests an extension of time to file its brief. The current deadline for MPCC to file its

brief is June 28, 2019, or seven days after Appellee University of St. Thomas' brief is due. *See* Fed. R. App. P. 29(a)(6). This is MPCC's first request for an extension of the deadline to file its amicus brief.

4. MPCC is making this request because the undersigned counsel has several pending matters between now and the June 28 deadline that will make it difficult to meet the deadline to file its brief. Those matters include:

- depositions in a case in Minnesota state court, *Enstad v. Redbrick Health Corporation*, 27-CV-18-18334;
- a motion to dismiss brief in a case in Minnesota state court, *Whitney v. M.A. Mortenson et al.*, 27-CV-19-7449; and
- travel to a national legal conference in Denver, CO from June 23 - June 26.

5. An extension of the deadline will also enable MPCC to take account of the parties' briefing and focus its own briefing on those matters that will be most helpful to the Court in deciding the significant issues presented by this appeal.

6. In short, an extension of the deadline to respond would allow MPCC and its counsel to assist this Court while also fulfilling the demands of other matters.

7. Counsel for MPCC sought Appellee and Appellant's consent to this request but received Appellee's consent only.

WHEREFORE, MPCC respectfully request that this Court allow MPCC to appear as amicus curiae and extend the deadline for the filing of their amicus brief to July 12, 2019.

Dated: June 17, 2019

FAEGRE BAKER DANIELS LLP

/s/ Sean R. Somermeyer

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## CERTIFICATE OF COMPLIANCE

I hereby certify that Amicus Curiae's motion to extend the deadline for filing its amicus brief complies with the type-volume limitation of Fed. R. App. P. 32 because the Motion contains 475 words. The Motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Office 365 ProPlus, in 14-Garamond font.

/s/ Sean R. Somermeyer  
*Counsel for Minnesota Private College Council*

### **Certificate of Service**

I certify that on June 17, 2019, a copy of the foregoing Amicus Curiae's Motion for Leave to File an Amicus Brief and For an Extension of Time to File Their Brief was filed electronically with the Clerk of the Court using the CM/ECF system, with will send notice of such filing to all registered parties.

/s/ Sean R. Somermeyer

*Counsel for Minnesota Private College Council*